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EXAMINER

ALAWADI, SARAH

ART UNIT	PAPER NUMBER
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1619

MAIL DATE	DELIVERY MODE
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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

ADVISORY ACTION

Applicant's argue that Smith teaches internally lubricated elastomers useful in therapeutic or medical device applications as penetrable septa, membranes or like barrier or sealing materials (see Title, Abstract and col. 8, lines 16-18). The block copolymer specifically taught by Smith for use in such applications is a styrene-ethylene/butylene-styrene block copolymer (see, e.g., claims 21, 47, 55 and 62, col. 2, lines 45-49, col. 8, lines 5-7 and 49-51, etc.). Smith at col. 4 lines 48 et seq. describes several prior art references which "may also be considered relevant to the present invention" including U.S. Pat. No. 4,123,409 to Kaelble. As an initial matter, it is noted that this portion of Smith pertains to background prior art references. Therefore, Applicants argue that the materials in Smith are used as barrier sealing materials.

In response, the Examiner respectfully submits that Smith et al. teach that the elastomer compositions disclosed are for use in medical and therapeutic device applications, see abstract and entire document. While Smith et al. does not expressly disclose a stent, it would have been within the purview of one of ordinary skill in the art to arrive at the instant invention through the combined teachings of Pinchuk and Smith because Smith teaches that the elastomer block polymers disclosed are useful for therapeutic and medical devices. Furthermore, Smith expressly teaches that such block copolymers contain good strength and resistance to tearing, see column 5, lines 3-4. Therefore one would have been motivated to use the polymers disclosed in Smith which already teaches medical device applications, with the medical devices of Pinchuk as they provide good strength and resistance to tearing and are capable of being used with medical device applications. One would expect that polymeric carrier regions which contain a therapeutic

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agent would need to impart good strength and resistance to tearing on medical devices so that the drugs do not get released prematurely. Therefore, the Examiner respectfully submits that the polymers disclosed in Smith et al. for medical device applications are necessarily capable of being applied as carriers for medical devices.

Applicants further argue that the engineering thermoplastic elastomers (ETEs) referred to by Hamilton as being resistant to most radiation are randomized block copolymers having polyester crystalline hard segments and amorphous glycol soft segments. Such copolymers are, however, irrelevant to those of Pinchuk and Smith .

In response, the Examiner respectfully submits that not only is sterilization inherent for any medical device being inserted into the body to rid pathogens that cause infection, Hamilton expressly teaches the advantages of forming thermostable elastomers for medical devices enables them to be sterilized by radiation, See col. 3, line 61. As Pinchuck and Smith teach thermostable elastomers, it would have been obvious to sterilize the device as thermoplastic elastomers are materials that withstand radiation.

Lastly, Applicants argue that claim 33 does not require the supplemental polymer.

In response, the Examiner respectfully submits that Pinchuck teaches supplemental polymers as an alternative embodiment. Although such supplemental polymers can be used to increase coating strength, they are not required in an embodiment of Pinchuck, see column 17, lines 29-38. Therefore Pinchuck exemplifies an embodiment without the supplemental polymers.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sarah Al-Awadi whose telephone number is (571) 270-7678.

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The examiner can normally be reached on 9:30 am - 6:00 pm; M-F (EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David J Blanchard can be reached at (571) 272-0827. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/SARAH AL-AWADI/
Examiner, Art Unit 1619

/David J Blanchard/
Supervisory Patent Examiner, Art Unit 1619